

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 5, 2021

1:04 p.m.

DRAFT

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Liz Snyder, Vice Chair (via Teams)
Representative Harriet Drummond
Representative Jonathan Kreiss-Tomkins
Representative Christopher Kurka
Representative Sarah Vance

MEMBERS ABSENT

Representative David Eastman

COMMITTEE CALENDAR

HOUSE BILL NO. 57

"An Act relating to the budget reserve fund established under art. IX, sec. 17(d), Constitution of the State of Alaska; relating to money available for appropriation for purposes of applying art. IX, sec. 17, Constitution of the State of Alaska; and providing for an effective date."

- MOVED HB 57 OUT OF COMMITTEE

HOUSE BILL NO. 155

"An Act relating to court-appointed visitors and experts; relating to the powers and duties of the office of public advocacy; relating to the powers and duties of the Alaska Court System; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 57

SHORT TITLE: FUNDS SUBJECT TO CBR SWEEP PROVISION

SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

02/18/21	(H)	PREFILE RELEASED 1/15/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS

02/18/21	(H)	JUD, FIN
03/10/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/10/21	(H)	Scheduled but Not Heard
03/17/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/17/21	(H)	Heard & Held
03/17/21	(H)	MINUTE(JUD)
03/19/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/19/21	(H)	-- Public Testimony --
03/24/21	(H)	JUD AT 1:30 PM GRUENBERG 120
03/24/21	(H)	Scheduled but Not Heard
03/29/21	(H)	JUD AT 1:00 PM GRUENBERG 120
03/29/21	(H)	Heard & Held
03/29/21	(H)	MINUTE(JUD)
03/31/21	(H)	JUD AT 1:00 PM GRUENBERG 120
03/31/21	(H)	<Bill Hearing Canceled>
04/05/21	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: HB 155

SHORT TITLE: COURT SYSTEM PROVIDE VISITORS & EXPERTS

SPONSOR(s): REPRESENTATIVE(s) TUCK

03/29/21	(H)	READ THE FIRST TIME - REFERRALS
03/29/21	(H)	JUD, FIN
04/05/21	(H)	JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE CHRIS TUCK

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 155.

JAMES STINSON

Director, Office of Public Advocacy

Department of Administration

Anchorage, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 155.

DOUG WOOLIVER

Deputy Administrative Director

Office of the Administrative Director

Alaska Court System

Anchorage, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 155.

ACTION NARRATIVE

[1:04:46 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:04 p.m. Representatives Drummond, Kreiss-Tompkins, Snyder (via teleconference) and Claman were present at the call to order. Representatives Vance and Kurka arrived as the meeting was in progress.

^#hb57

HB 57-FUNDS SUBJECT TO CBR SWEEP PROVISION

[1:05:19 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 57, "An Act relating to the budget reserve fund established under art. IX, sec. 17(d), Constitution of the State of Alaska; relating to money available for appropriation for purposes of applying art. IX, sec. 17, Constitution of the State of Alaska; and providing for an effective date."

CHAIR CLAMAN announced this was the committee's third hearing of HB 57, and no amendments had been submitted. He invited final comments.

[1:06:00 PM](#)

REPRESENTATIVE DRUMMOND said she is fine with HB 57, which she described as "something that needs to be done." She indicated a need for education for legislators as to the reason for a reverse sweep.

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CHAIR CLAMAN commended the work of the bill sponsor, Representative Andy Josephson, for analyzing "the details of the lawsuits that put us in this situation and the details that were raised." He expressed his support for HB 57.

CHAIR CLAMAN noted for the record that Representative Snyder would be voting via Teams.

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REPRESENTATIVE SNYDER moved to report HB 57 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 57 was reported out of the House Judiciary Standing Committee.

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The committee took an at-ease from 1:07 p.m. to 1:12 p.m.

^#hb155

HB 155-COURT SYSTEM PROVIDE VISITORS & EXPERTS

[1:11:59 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 155, "An Act relating to court-appointed visitors and experts; relating to the powers and duties of the office of public advocacy; relating to the powers and duties of the Alaska Court System; and providing for an effective date."

CHAIR CLAMAN noted this was the first hearing of HB 155 in the House Judiciary Standing Committee.

[1:12:30 PM](#)

REPRESENTATIVE CHRIS TUCK, Alaska State Legislature, as prime sponsor, presented HB 155. He paraphrased the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

The Court Visitor Program was created to act as an investigative arm of the Alaska Court System in certain protective probate proceedings. Court visitors conduct independent investigations into whether guardianships or conservatorships are necessary. They also review each existing guardianship and conservatorship at least once every three years. Additionally, court visitors participate in psychotropic medication proceedings during involuntary commitments to investigate whether the patient can give or withhold informed consent.

Since 1984, the court visitor program has been administered by the Office of Public Advocacy. Unfortunately, there is no legislative history that clarifies why this judicial branch program was placed

under the direction of an executive branch office. The only inference that can be made is that anything having to do with "guardianships" was placed with OPA because the office provides public guardians and attorneys for these proceedings.

As the court visitor program has continued to grow, it has become increasingly unwieldy because OPA cannot effectively supervise independent contractors who act as "the eyes and ears" of the court. There is also duplicity of services between the executive and judicial branches of government because the court system independently contracts with and directly pays for court visitors in conservatorship proceedings. OPA is only responsible for providing court visitors in guardianship proceedings. The differences between how OPA and the Court System handle these proceedings have caused frustration among the court visitors who work both types of cases.

Both the Alaska Court System and OPA agree that transferring the program to the court system is long overdue and would make the program more efficient. The transfer would allow the Court System to put in place standards for reports and who it chooses to use as a court visitor.

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REPRESENTATIVE TUCK said the Office of Public Advocacy (OPA) budget for the court visitor program is approximately \$854,400, which is included in the governor's proposal for the fiscal year 2022 (FY 22) budget. He said the fiscal note from the Alaska Court System states that one additional person would be needed "to provide the training and supervision and scheduling of the court visitors."

[1:16:45 PM](#)

CHAIR CLAMAN announced the committee would hear invited testimony.

[1:17:17 PM](#)

JAMES STINSON, Director, Office of Public Advocacy, Department of Administration, remarked that HB 155 has been "a long time coming." He said when he started as director a couple years

ago, he found it odd that this program was housed with OPA, and discovered his opinion was shared within the agency. He recalled a legislative audit from the early 2000s that raised all these same arguments recommended transferring the program. He speculated that the issue "just kept dropping off the radar." He described HB 155 as "one of those win-win-win scenarios," because he cannot think of a downside to this proposal that would provide more efficiency to running the program, result in better outcomes, and allow the court system to set standards of practice, which OPA was never able to do. He explained that there was always a fear for OPA about making a change that could affect the court system. He said in a conservatorship case, the court system directly appoints court visitors; in a guardianship case, OPA has that responsibility.

MR. STINSON said there is often a perceived conflict by members of the public, which HB 155 would resolve. He explained that because OPA is organized as multiple law firms under one umbrella, it sometimes can be confusing to see OPA is the public guardian, the court visitor, the respondent attorney in the guardianship proceeding, and in rare circumstances the provider of a guardian ad litem or expert, even though OPA is just paying for the guardian ad litem or expert.

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DOUG WOOLIVER, Deputy Administrative Director, Office of the Administrative Director, Alaska Court System, reminded the committee that the court generally does not take a position on bills; however, HB 155 is a joint effort by OPA and the Alaska Court System. He echoed Mr. Stinson's comments that this issue has been around a long time and just kept dropping off the radar. He said there are inefficiencies and frustrations from having court visitor function housed in OPA. Under HB 155, the court system will be able to set up a training regiment and standards in guardianship cases; it already does so in conservatorship cases, which are similar and "frequently go hand in hand." He said the court system supports HB 155.

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REPRESENTATIVE VANCE asked whether there would be a fiscal note that reflects the judicial branch of this transfer.

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REPRESENTATIVE TUCK responded yes, there would be an increase in the Alaska Court System's FY 22 budget request. He indicated that in the first year that would reflect the cost of training.

[1:24:00 PM](#)

The committee took a brief at-ease at 1:24 p.m.

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CHAIR CLAMAN asked whether, under HB 155, the guardian ad litem function would stay in OPA.

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MR. STINSON confirmed that is correct. In response to a follow-up question, he offered his understanding that HB 155 would replace OPA with the court system "where necessary." He reviewed that currently the court system provides for court visitors in conservatorship proceedings, so the only thing that needed to be changed was the guardianship aspect of statute.

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REPRESENTATIVE DRUMMOND asked whether the additional position would be permanent or temporary.

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MR. WOOLIVER responded that currently OPA does not do training for court visitors, and the court would like to institute regular training. He noted it is a full-time position with turnover. He said [under HB 155], the court would be doubling its caseload by a couple hundred additional cases. He indicated this would be an ongoing position, and he said because of Baby Boomers, this need is not only a current one but is also a growing need.

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REPRESENTATIVE VANCE mentioned appointments to assess competency and administering medication, and she asked whether there was a crossover with the Alaska Mental Health Trust Authority (AMHTA) "in being able to fund this position."

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MR. WOOLIVER answered that in general, AMHTA does not like to fund full-time positions in other entities. He said the court system gets grant funds from AMHTA that help support programs, and the trust helps to set up some "therapeutic courts," but he added that it is on a temporary basis. He said the vast majority of the work of court visitors in both guardianship and conservatorship is "for people that may not be beneficiaries of the trust." In response to a follow-up question, he said he does not know how many people require involuntary administration of psychotropic drugs, but he said he could seek an answer.

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MR. STINSON said he does not know the answer and would be interested to find out not only how many are administered the medication, but also "how many are actually successful in requiring involuntary medication."

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CHAIR CLAMAN asked whether there is some frequency in cases that begin as involuntary cases and end up as voluntary medication cases.

MR. STINSON offered his understanding that the answer is yes. He noted there is legislation currently being proposed regarding emergency crisis centers and a new framework for assessing that frequency. He said when someone becomes more stabilized, there is a chance that "medication compliance may come back on board."

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CHAIR CLAMAN explained he had mentioned this scenario to point out that it could change the statistical analysis.

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REPRESENTATIVE VANCE explained her questions were an attempt to see the bigger picture and would have not bearing on whether she supports HB 155, because "obviously it's a need."

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CHAIR CLAMAN opened public testimony on HB 155. After ascertaining there was no one who wished to testify, he closed public testimony.

1:34:55 PM

CHAIR CLAMAN announced that HB 155 was held over.

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1:35:27 PM

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:35 p.m.